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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,156	11/19/2001	Toru Owada	TSM-17	8169

7590 09/07/2006

MATTINGLY, STANGER & MALUR, P.C.  
ATTORNEYS AT LAW  
SUITE 370  
1800 DIAGONAL ROAD  
ALEXANDRIA, VA 22314

EXAMINER

BROWN, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/988,156	<b>Applicant(s)</b> OWADA ET AL.	
	<b>Examiner</b> Christopher J. Brown	<b>Art Unit</b> 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 6/20/06.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 2-14 have been considered but are moot in view of the new ground(s) of rejection. Applicants arguments with respect to partial encryption with respect to the independent claims are moot in view of Meffert US 2002/0059144.

Applicant's arguments filed 12/15/2005 have been fully considered but they are not persuasive.

Applicant argues that Meffert teaches that the entire "contents" are encrypted in Meffert. The examiner disagrees. Meffert teaches an Mp3 file, all of which is considered digital content. The portion of Meffert that remains unencrypted is not only the header and tags, but also an audio message that a user may play without decrypting the rest of the contents (Fig 6). In the claims of the instant specification, the applicant only states that part, but not all of the digital contents are encrypted. The applicant fails to include in the claims, that which is in the applicants argument, that "only part of the image or sound content of the file can be seen or heard but the entire content of the data file may not be seen or heard". Even if this statement was somehow incorporated into the claims, the examiner would still argue that part of the file of Meffert can be heard without decryption.

***Claim Objections***

2. Claims 7, 8, 11 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 7, 8, and 11 state that a “part” of the data is subject to an encryption process, but does not state “part but not all” thus the claims are not further limiting.

The examiner would warn the applicant against using the terms “wherein” and “whereby” and “when” which are broadly used throughout the claims. This language raises questions as to whether the steps claimed are optional. Please see MPEP 2111.04. The examiner recommends positively reciting the invention rather than the current seemingly optional recitation.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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**Claims 1-7, 10, 13, 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Graunke US 2003/0005285 in view of Meffert US 2002/0059144.**

As per claims 1-4, and 10, Graunke teaches a distribution system for media, [0013].

Graunke teaches digital content distributing system having digital content and encrypting it with a first shared key with a processing apparatus, [0014], [0016], [0028]. Graunke teaches decrypting the data at a processing apparatus and reencrypting the data with a second shared key with the output device, [[0020], [0021], [0028]. Graunke teaches the output device decrypts and displays the digital content. [0028]. Graunke fails to teach an encrypted file with an unencrypted portion.

Meffert teaches encrypting a content file while leaving a portion unencrypted, [0101], [0102], [0103], Fig 6.

It would have been obvious to one of ordinary skill in the art to include Meffert's unencrypted portion to identify the file and find information on how to obtain it.

As per claim 7, Graunke-Meffert teaches the output unit is a sound reproducing unit, and the data is encrypted audio data, [Graunke 0014], [Graunke 0021].

As per claims 5, 6, 13, and 14, Graunke teaches a distribution system for media, [0013].

Graunke teaches digital content distributing system having digital content and encrypting it with a first shared key with a processing apparatus, [0014], [0016], [0028]. Graunke

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teaches decrypting the data at a processing apparatus and reencrypting the data with a second shared key with the output device, [[0020], [0021], [0028]. Graunke teaches the output device decrypts and displays the digital content. [0028]. Graunke teaches distributing a variety of content [0014]. Graunke fails to teach an encrypted file with an unencrypted portion.

Meffert teaches encrypting a content file while leaving a portion unencrypted, [0101], [0102], [0103], Fig 6.

It would have been obvious to one of ordinary skill in the art to include Meffert's unencrypted portion to identify the file and find information on how to obtain it.

**Claims 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graunke US 2003/0005285 in view of Meffert US 2002/0059144 in view of Van Eck US 4,669,117.**

As per claims 8 and 11, Graunke-Meffert teaches encrypting video [Graunke 0014].

Graunke-Meffert fails to teach encrypting by line or column.

Van Eck teaches encrypting video by line, (Col 1 lines 56-60, Claim 3).

It would have been obvious to one of ordinary skill in the art to combine the video of Graunke-Meffert by column so that the output device would be protected against illicit looking at the display, (Van Eck Col 1 lines 50-54).

**Claims 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graunke US 2003/0005285 in view of Meffert US 2002/0059144 in view of Virga US 5,321,749.**

As per claims 9 and 12, Graunke-Meffert teaches encrypting video [Graunke 0014].

Graunke-Meffert fails to teach encrypting by pixel.

Virga teaches encrypting video by pixel, (Col 10 lines 40-46).

It would have been obvious to one of ordinary skill in the art to encrypt the video of Graunke-Meffert by the pixel method of Virga because the encrypted pixels obfuscate the video.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.


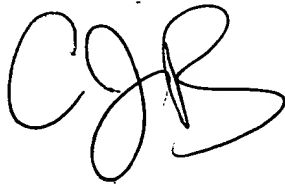
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jaques Louis Jaques can be reached on (571)272-6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher J. Brown

8/25/06



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